REMARKS

Consideration and entry of this paper, reconsideration and withdrawal of any and all rejections, and allowance of the claims, especially in view of the amendments and remarks made herein, is respectfully requested, as this paper places the application in condition for allowance, or in better condition for appeal.

I. STATUS OF THE CLAIMS

Claims 47-52, 55, 56, 61-63, 65, 66, and 73-74 were previously pending. By this paper, claims 47, 50-52, 56, and 66 are amended and claim 48 is canceled, without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents.

No new matter is added.

It is respectfully submitted that the claims herewith and the claims as originally presented are and were in full compliance with the requirements of 35 U.S.C. §§101, 102, 103 and 112. Support for the amended recitations is found throughout the specification and in the originally filed claims.

II. REJECTIONS UNDER 35 U.S.C. § 112, FIRST PARAGRAPH

Claims 47-52, 55-56, 61-63, 65-66 and 73-74 were rejected under 35 U.S.C. § 112, first paragraph for allegedly failing to comply with the written description requirement and for allegedly lacking enablement. Specifically, the Office Action alleged that one could not envision the entire subgenus of antibodies against MHC class I or class II antigens that have the functional property of increasing the relative number of CD45 low cells, and that, while the specification **is** enabling for antibodies that bind to the α or β chains of MHC class I and II antigens, it is not enabling for antibodies that bind to MHC class I and II antigens through other chains or subunits, such as the beta-2-microglobulin subunit that is associated with MHC class I or the "invariant chain" which is associated with MHC class II.

By this paper, claim 47 is amended to recite antibodies that bind specifically to the α or β chains of MHC class I and class II antigens, thereby overcoming the rejection of claim 47, and of claims 48-52, 55-56, 61-63, 65-66 and 73-74 which depend therefrom. Accordingly,

reconsideration and withdrawal of the rejections under 35 U.S.C. § 112, first paragraph is respectfully requested.

III. REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 48, 50-52, 56 and 66 were rejected under 35 U.S.C. § 112, second paragraph, for allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Office Action alleged that the phrase "engaging a receptor by direct or indirect engagement" in claim 48 rendered that claim unclear because it was not known what was meant by "direct" or "indirect" engagement. By this paper claim 48 is canceled, thereby overcoming this rejection.

The Office Action also asserted that the phrase "committed cells" in claims 50-52 and 66 lacks antecedent basis in claim 47. By this paper claims 50-52 and 66 are amended to recite "committed hemopoietic cells" instead of "committed cells." As the phrase "committed hemopoietic cells" is used in claim 47, this amendment overcomes the antecedent basis rejections.

Finally, the Office Action also asserted that the recitation "wherein the MHC class I antigen is an HLA-DR receptor" in claim 56 is incorrect because the other claims suggest that the HLA-DR receptor is an MHC class II antigen. By this paper claim 56 is amended to correct this typographical error. Claim 56 now recites "wherein the MHC class II antigen is an HLA-DR receptor," thereby overcoming this rejection.

Accordingly, reconsideration and withdrawal the rejections of the claims under 35 U.S.C. § 112, second paragraph, is respectfully requested.

IV. DOUBLE PATENTING REJECTIONS.

Claims 47-52, 55-56, 61-63, 65-66 and 73-74 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-20 of U.S. Patent No. 6,090,625.

This rejection is respectfully traversed. However, in order to advance prosecution of the present application, Applicants will file a terminal disclaimer upon notification that the claims are otherwise in condition for allowance.

CONCLUSION

In view of the remarks and amendments herewith, which are fully responsive to the rejections, the application is in condition for allowance or in better condition for appeal. Consideration and entry of this paper, reconsideration and withdrawal of the rejections of the application, and prompt issuance of a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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